

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 17548
[REDACTED],)	
)	DECISION
Petitioners.)	
_____)	

On June 10, 2003, the staff of the Tax Discovery Bureau of the Idaho State Tax Commission issued a Notice of Deficiency Determination [Redacted] (taxpayers), proposing income tax, penalty, and interest for the taxable years 1995, 1996, and 1998 through 2001 in the total amount of \$380,022.

On August 11, 2003, the taxpayers filed a timely appeal and petition for redetermination. The taxpayers did not request a hearing and have failed to provide any additional information or documentation for the Tax Commission to consider. The Tax Commission, having reviewed the file, hereby issues its decision.

The Tax Discovery Bureau (Bureau) received information that showed the taxpayers may have had a filing requirement with the state of Idaho for the tax years 1995 through 2001. The Bureau sent the taxpayers a letter asking them about their requirement to file Idaho individual income tax returns. The taxpayers did not respond. The Bureau obtained additional information [Redacted] and determined the taxpayers were required to file Idaho income tax returns. The Bureau prepared returns for the 1995, 1996, and 1998 through 2001 years for the taxpayers and sent them a Notice of Deficiency Determination.

The taxpayers protested the Bureau's determination stating they were not residents of Idaho in 1995 nor did they have Idaho source income in 1995. They stated they were part-year residents of Idaho in 1996 but had no income reportable to Idaho. For 1998, the taxpayers stated

they were not residents of Idaho and had no Idaho source income. The taxpayers said for 1999 they were part-year residents of Idaho, but they were unsure how much of their income was subject to Idaho tax. [Redacted] They stated the 2000 loss would be carried forward into 2001 to offset a substantial portion of their 2001 taxable income. The taxpayers stated they made a \$75,000 estimated tax payment toward their 2001 tax liability that should have covered the tax for that year.

The Bureau requested additional information from the taxpayers but did not receive anything from them. Therefore, the Bureau referred the matter for administrative review. The Tax Commission sent the taxpayers a letter giving them two alternative methods for redetermining the Notice of Deficiency Determination. The taxpayers did not respond, so the Tax Commission sent a follow-up letter. Still the taxpayers did not respond. The Tax Commission finally made contact with the taxpayers by telephone and discussed the need for additional documentation of their income and losses. The taxpayers said they would provide copies of their federal returns to show their income for all the years. After a year of hit and miss contacts, the taxpayers have yet to provide anything showing their income or losses. Therefore, the Tax Commission, after giving the taxpayers more than adequate time to provide additional information, issues its decision based upon the information available.

The Bureau, upon receipt of the taxpayers' letter of protest, reviewed the information and determined the information provided was sufficient to cancel the Notice of Deficiency Determination as it pertains to the tax years 1995 and 1996. Therefore, the Tax Commission's decision applies only to the remaining tax years of 1998 through 2001.

In December 1996 the taxpayers applied for the homeowner's exemption [Redacted]. The taxpayers began receiving the homeowner's exemption in 1997 and continued to receive it at

least through 2003. The taxpayers titled vehicles in Idaho in 1999 and 2003. The taxpayers had Idaho driver's licenses beginning at least in 1992 through the present. The taxpayers also purchased Idaho resident fish and game licenses in 2000 and 2001. All these things are indicia of Idaho residency and/or domicile. If the taxpayers were residents or domiciled in Idaho during the years in question, and they had income in excess of the filing requirement thresholds, they were required to file Idaho individual income tax returns. See Idaho Code sections 63-3013 and 63-3030.

The taxpayers stated that they were not residents in 1998 and that they were part-year residents in 1999. However, they have not provided anything to show that they were not domiciled in Idaho in 1998 or that they met the safe-harbor provisions of Idaho Code section 63-3013. For 2000 and 2001, the taxpayers stated they incurred a substantial loss in 2000 that would substantially offset their 2001 taxable income. However, once again, the taxpayers have failed to produce anything to substantiate their claim.

In Idaho, it is well established that a State Tax Commission Notice of Deficiency Determination is presumed to be correct, and the taxpayer bears the burden of showing that the deficiency is erroneous. Parsons v. Idaho State Tax Commission, 110 Idaho 572, 574-575 n.2, 716 P.2d 1344, 1346-1347 n.2 (Ct. App. 1986); Albertson's, Inc. v. State, Dept. of Revenue, 106 Idaho 810, 814, 683 P.2d 846, 850 (1984). The taxpayers have not met their burden. The Bureau based its computation of the taxpayers' Idaho tax on W-2 wage statements, 1099 statements, and a schedule K-1 filed with the Internal Revenue Service. This information is solid and verifiable. Any losses or deductions the taxpayers have to offset the income amounts reported must be documented, and the taxpayers must be able to show the loss or deduction is allowable by the applicable statute. New Colonial Ice Co., Inc. v. Helvering, 292 US. 435, 54

S.Ct. 788 (1934). The taxpayers have failed to produce anything. Therefore, the Tax Commission upholds the Bureau's determination.

WHEREFORE, the Notice of Deficiency Determination dated June 10, 2003, is hereby MODIFIED and as so modified is APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the taxpayers pay the following tax, penalty, and interest:

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
1998	\$ 10,331	\$ 2,583	\$ 5,448	\$ 18,362
1999	7,800	1,950	3,544	13,294
2000	3,646	912	1,365	5,923
2001	118,518	29,630	35,235	<u>183,383</u>
			TOTAL DUE	<u>\$220,962</u>

Interest is calculated to April 1, 2007.

An explanation of the petitioners' right to appeal this decision is included with this decision.

DATED this _____ day of _____, 2007.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____, 2007, a copy of the within and foregoing DECISION was served by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[REDACTED]
[REDACTED]

Receipt No.
